

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARIA MARGHERITA PERACCHINO and
MEDIAPRESS S.R.L.,

Plaintiff,

-against-

VINCENZO MARRA and
JOHN DOE COMPANY,

Defendants.

Civ. Action No.
07 Civ. 3257 (LTS)

AFFIDAVIT IN SUPPORT
OF MOTION TO DISMISS
THE COMPLAINT

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STATE OF NEW YORK)
 ss.:
COUNTY OF NEW YORK)

LEO KAYSER, III, being duly sworn deposes and says as follows:

1. I am a member of the firm of Kayser & Redfern, LLP attorneys for the defendants herein, VINCENZO MARRA and JOHN DOE COMPANY (hereinafter collectively referred to as "Defendants"). I respectfully submit this affidavit in support of Defendants' Motion pursuant to Rules 12(b)(3) and 12(b)(6) of the Fed. R. Civ. P. to dismiss the Amended Complaint filed by the Plaintiffs herein, MARIA MARGHERITA PERACCHINO (hereinafter referred to as "Peracchino") and MEDIAPRESS S.R.L., (hereinafter referred to as "MP"). I am fully familiar with the facts and circumstances set forth herein.

2. This action was commenced by service of a Summons and Complaint dated April 23, 2007, a copy of which is annexed hereto as Exhibit "A". Thereafter Plaintiffs served an Amended Complaint dated June 7, 2007, a copy of which is annexed hereto as Exhibit "B".

3. On or about June 11, 2007, counsel for the parties entered into a Stipulation extending Defendants' time to move or answer until July 17, 2007. A copy of the Stipulation So Ordered by the Court on June 15, 2007, is annexed hereto as Exhibit "C".

4. Pursuant to the Court's rules, I certify that I have made my best effort to resolve the matters raised in this motion. On July 9, 2007, I sent a letter to Plaintiffs' attorney informing him of the Amended Complaint's failure to state a cognizable claim in any of the ten counts averred and that Italy is the proper and more convenient forum for this action. A copy of my letter dated July 9, 2007, is annexed hereto as Exhibit "D". In response to my letter, I had a further telephone conversation with Plaintiffs' counsel on or about July 10, 2007, but was unable to reach accord on the sufficiency of the averred counts or on the issue of choice of forum.

5. Defendants hereby move to dismiss the Amended Complaint on the grounds Plaintiffs' failure to state a claim upon which relief can be granted and forum non convenience as more particularly set forth in the accompanying Memorandum of Law.

WHEREFORE, Defendants respectfully request that the Court
dismiss Plaintiffs' Amended Complaint.



LEO KAYSER, III

Sworn to before me this
10th day of July, 2007



Notary Public

DEBORAH MOORE
Notary Public, State of New York
No. 01MO4818549
Qualified in New York County
Commission Expires October 31, ~~2006~~
2010